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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/590,257	08/22/2006	Stefan Clauss	3753	6037

7590  
Striker Striker & Stenby  
103 East Neck Road  
Huntington, NY 11743

01/29/2008

EXAMINER
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SAHLE, MAHIDERE S

ART UNIT	PAPER NUMBER
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2873

MAIL DATE	DELIVERY MODE
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01/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

10/590,257

**Applicant(s)**

CLAUSS ET AL.

**Examiner**

Mahidere S. Sahle

**Art Unit**

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 10/27/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Detailed Action.

### **DETAILED ACTION**

Claims 1-11 are pending in this application.

#### ***Priority***

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Information Disclosure Statement***

Acknowledgement is made of receipt of Information Disclosure Statement(s) (PTO-1449) filed 10/27/06. An initialed copy is attached to this Office Action.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Murray (USPG Pub No. 2007/0175054).

Regarding claim 1, Murray discloses an optical marking device having at least one light source (16) (see figure 1, paragraph 0023), and having means for generating a first optical projection line on a reference face (paragraph 0024), as well as means for generating a second optical projection line on the same reference face (paragraphs 0024, 0059), and the second optical projection line forms an angle of  $90^\circ$  with the first projection line (paragraph 0059), characterized in that means are present which generate a third projection line (paragraphs 0058-0059), and the third projection line assumes an angle of  $45^\circ$  to the first optical projection line and an angle of  $45^\circ$  to the second optical projection line (paragraphs 0058-0059).

Regarding claim 2, Murray discloses the first, second, and third projection lines define a plane (see figure 19, paragraph 0059).

Regarding claim 3, Murray discloses the third projection line is an optical projection line (paragraphs 0023, 0058-0059).

Regarding claim 4, Murray discloses that at least one projection line is fanned out perpendicular to the reference plane (paragraphs 0028, 0058-0061).

Regarding claim 5, Murray discloses that the three optical projection lines are generated by at least one light source (16) (paragraph 0059), and in particular by at least one linear laser (paragraphs 0024, 0039).

Regarding claim 6, Murray discloses that the three optical projection lines are generatable by means of a single light source (16), and in particular by means of a single laser signal (paragraph 0059).

Regarding claim 7, Murray discloses that the optical projection lines are generatable by means of at least one optical element (88) from the single light source (16) (paragraphs 0039, 0059).

Regarding claim 8, Murray discloses a tool device (10) having a device as defined by one of claims 1 through 7 (see figure 1, paragraph 0023).

Regarding claim 9, Murray discloses that the device is suspended in the manner of a pendulum laser in a housing (12) of the tool device (10) (paragraph 0045).

Regarding claim 10, Murray discloses that the device is calibratable relative to the housing (12) of the tool device (10) (paragraphs 0042-0043).

Regarding claim 11, Murray discloses that the emission from the optical projection lines is switchable out of the housing (12) of the tool device (10), and in particular is individually switchable (see figure 2, paragraphs 0038-0040, 0058-0059).

***Prior Art Citations***

Hayes et al. (USPG Pub No. 2006/0137195), Chang et al. (USPG Pub No. 2004/0177523) are each being cited herein to show an optical marking device that would have read on or made obvious a number of the above rejected claims, however, such rejections would have been repetitive.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mahidere S. Sahle whose telephone number is (571 270-3329. The examiner can normally be reached on Monday thru Thursday 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Mack can be reached on 571 272-2333. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSS

  
RICKY MACK  
SUPERVISORY PATENT EXAMINER